

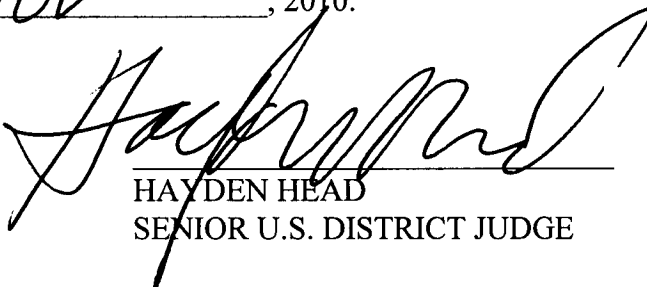
Plaintiff does not challenge the admissibility of his testimony. The parties agree that none of these witnesses will be called to testify on the adequacy of the stain's label. It is undisputed that if Plaintiff is unable to prove that spontaneous combustion of the stain caused the fire, a trial on whether the stain's label provides an adequate warning against spontaneous combustion will be unnecessary.

Based on the foregoing, the Court finds bifurcating trial of this case into two separate issues has the potential of expediting resolution of this case and saving the parties, their witnesses, and the jury's time and resources. *See* Fed. R. Civ. P. 42(b). The cause and origin of the fire is a distinct and separate issue from whether the stain's label provides an adequate warning against spontaneous combustion, i.e. whether the label complies with the FHSA. These issues may be tried separately without prejudice to either party. *McDaniel v. Anheuser-Busch, Inc.*, 987 F.2d 298, 305 (5th Cir. 1993).

Defendant's motion to bifurcate is GRANTED (D.E. 135). This case will be tried in two phases. In the first phase, a trial will be held to determine the cause and origin of the fire. If Plaintiff is able to prove that spontaneous combustion of the stain caused the fire, trial will proceed to the second phase to determine whether the stain's label provided an adequate warning against spontaneous combustion. If Plaintiff is unable to prove that spontaneous combustion of the stain caused the fire, the trial will conclude..

Defendant's Motion for Clarification of the Court's Order Granting in Part and Denying in Part Defendant's Motion for Summary Judgment is DENIED (D.E. 130).

ORDERED this 15 day of Nov, 2010.



HAYDEN HEAD
SENIOR U.S. DISTRICT JUDGE